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July 26, 2004

Via Electronic Filing

Mr. Joel H. Peck, Clerk
State Corporation Commission
Document Control Center
Tyler Building, First Floor
1300 East Main Street
Richmond, VA 23219

**Re: Notice of Participation and Comments of the Virginia Committee
for Fair Utility Rates
PUE-2004-00068**

Dear Mr. Peck:

Attached for electronic filing please find a Notice of Participation and Comments of the Virginia Committee for Fair Utility Rates in the referenced matter. The Commission's acknowledgment of this filing should be e-mailed to me at: bgreene@cblaw.com.

Please contact me should you have any questions.

Sincerely,



Brian R. Greene

BRG/srl: 685946: 91006.00032

cc: Service list

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. PUE-2004-00068

Ex Parte: In the matter of establishing rules and regulations pursuant to the Virginia Electric Utility Restructuring Act for exemptions to minimum stay requirements and wires charges

**NOTICE OF PARTICIPATION AND COMMENTS OF
THE VIRGINIA COMMITTEE FOR FAIR UTILITY RATES**

The Virginia Committee For Fair Utility Rates ("Committee"), by counsel, files this Notice of Participation and Comments pursuant to the Commission's June 16, 2004, Order Establishing Proceeding.

Notice of Participation

The members of the Committee are industrial customers of Virginia Electric and Power Company ("Virginia Power"). The Committee desires to participate in this proceeding, including the work group established by the Commission. Pursuant to Ordering Paragraph 5 of the June 16, 2004, Order Establishing Proceeding, the contact information for the Committee, is:

Virginia Committee For Fair Utility Rates
c/o Brian R. Greene
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Counsel for the Committee are as follows:

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Comments of the Committee

The Commission requested that interested parties respond to any or all of eleven questions. The Committee's responses are set forth below.

Question 4: Describe, in reasonable detail, the methodology that should be used to determine "market-based costs." Such description should address each of the three cost components: "(i) actual expenses of procuring such electric energy from the market, (ii) additional administrative and transaction costs associated with procuring such energy, including, but not limited to, costs of transmission line losses, and ancillary services, and (iii) a reasonable margin." Specifically, for each component, identify (1) each cost item that should be considered within that component; (2) how each such cost item should be determined, including the informational source of any data needed in such determination (differentiate between actual and estimated costs and also, to the extent relevant, differentiate between incremental cost and fully allocated cost, including the application of cost overheads); and (3) an explanation of the economic rationale for the determination of a reasonable margin.

Answer: In determining "market-based costs," the "reasonable margin" component should mean the incumbent utility's reasonable costs to compensate it for the risk of providing the market-based service. Assuming that the service merely flows through to eligible customers actual PJM hourly prices, plus actual ancillary and transmission costs, there is little-to-no risk to the provider, no investment, and no reason for any margin.

Question 8: Interpret the extent of the legislated jurisdiction provided to the Commission with respect to the determination of “market-based costs,” for example:

- a. Is the Commission’s jurisdiction strictly limited to determination and approval of a methodology?
- b. How frequently may and should the Commission review and/or modify the approved methodology?
- c. Does the Commission’s jurisdiction extend to oversight of the actual determination of “market-based costs,” including the audit, calculation, and billing of such costs and dispute resolution?

Answer: In response to question 8(a), the answer is “no” – the Commission’s jurisdiction is not strictly limited to determination and approval of a methodology.

Allowing for the Commission’s continuing jurisdiction over, and broad oversight of, any approved methodology is consistent with the statutory goals of developing effective competition and economic development within the Commonwealth. In this regard, with respect to questions 8(a) and (c), the Commission should have continuing jurisdiction to review and modify any approved methodology. It would make no sense to empower the Commission to determine and approve a methodology in order to develop a competitive market and foster economic growth, but to prohibit the Commission from reviewing or modifying any approved methodology. The power to modify an approved methodology is especially necessary in this case, in which the Commission will be determining a methodology for the first time. In addition, the power to determine and approve a methodology should include the power to ensure that it is implemented and calculated correctly, and to offer a dispute resolution program that will expedite the resolution of any problems.

With respect to question 8(b), upon petition of an interested party or upon its own motion the Commission should formally review and, as necessary, modify the methodology. The opportunity for subsequent reviews is necessary given the uncertainty of the impact of any approved methodology and the stated goals of fostering competition and economic development. The Commission may, in this case or in the future, decide that there should be more than one type of market-based electric supply service offered. For example, the Commission may conclude that the price of one type of service should be based on a forward market instead of the hourly spot market.

Question 9: Given the Wires Charge exemption program requirement for 60 days' prior notice to the incumbent utility for the return to service and purchase of retail electric energy at "market-based costs," who, if anyone, is obligated to serve a participating customer for those 60 days, and at what price, if such customer's competitive service provider defaults and there are no competitive options available to the customer?

Answer: The wires charge exemption in Va. Code § 56-583.E clearly applies to customers that switch from their utility to a supplier and then *voluntarily* return to their incumbent utility (with 60-days' notice to the utility) at market-based costs. The statute does not address an *involuntary* return to the incumbent utility, *e.g.*, as a result of a supplier's default. It is the Committee's view that, in such instances, the customer is exempt from any notice provisions in returning to its incumbent utility, and that the rules relating to default service apply.

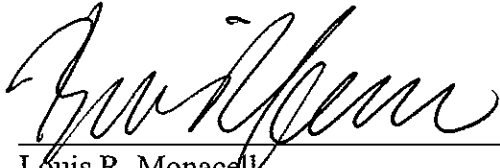
Question 11: Subsequent to the eighteen-month demand limitation on participation in the Wires Charge exemption program, should such limitations be completely eliminated? Explain why or why not?

Answer: After 18 months, the demand limitation should be eliminated.

Respectfully submitted,

VIRGINIA COMMITTEE FOR
FAIR UTILITY RATES

By Counsel



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Date: July 26, 2004

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Notice of Participation and Comments of the Virginia Committee for Fair Utility Rates was served on each person on the official service list of this case and also on the Commission Staff members listed in the Commissions' June 16, 2004, Order Establishing Proceeding.


Counsel

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